

110TH CONGRESS
2D SESSION

S. 2564

To make certain reforms with respect to the Government Accountability Office, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2008

Mr. LIEBERMAN (for himself and Ms. COLLINS) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To make certain reforms with respect to the Government Accountability Office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Government Accountability Office Act of 2008”.

6 (b) REFERENCE.—Except as otherwise expressly pro-
7 vided, whenever in this Act an amendment is expressed
8 in terms of an amendment to a section or other provision,
9 the reference shall be considered to be made to a section
10 or other provision of title 31, United States Code.

1 **SEC. 2. APPOINTMENT PROCESSES.**

2 Section 703 is amended—

3 (1) by striking the term “and Deputy Comp-
4 troller General are” and inserting “is” in subsection
5 (a)(1),

6 (2) by striking the first sentence in subsection
7 (a)(2) and inserting the following: “A commission
8 shall be established 12 months in advance of an up-
9 coming vacancy in the office of Comptroller General
10 to recommend individuals to the President for ap-
11 pointment to the office, except that if the vacancy is
12 unanticipated, the commission shall be established
13 when the vacancy occurs.”,

14 (3) by inserting “and” at the end of subsection
15 (a)(2)(C),

16 (4) by striking “; and” in subsection (a)(2)(D),
17 inserting a period, and striking all of subsection
18 (a)(2)(E),

19 (5) by redesignating subsections (b), (c), (d),
20 (e), and (f) as subsections (c), (d), (e), (f) and (g)
21 and inserting a new subsection (b) as follows:

22 “(b) The Comptroller General shall appoint the Dep-
23 uty Comptroller General in consultation with those indi-
24 viduals listed in clauses (A), (B), (C) and (D) of this sub-
25 section and in so doing shall choose an individual solely
26 on the basis of integrity and demonstrated ability related

1 to the auditing, financial and management analysis, public
 2 administration, investigative and legal functions of the Of-
 3 fice.”,

4 (6) in subsection (c), as redesignated by this
 5 section, by striking “(e)” and inserting “(f)”,

6 (7) in subsection (d), as redesignated by this
 7 section, by renumbering subsections (1) and (2) as
 8 subsections (2) and (3) and inserting a new sub-
 9 section (1) as follows:

10 “(1) serves at the pleasure of the Comptroller
 11 General;”, and

12 (8) in subsection (f), as redesignated by this
 13 section, by deleting the term “or Deputy Comp-
 14 troller General” wherever it appears and by deleting
 15 in subsection (1) the words “(as the case may be).
 16 Either” and inserting “and”.

17 **SEC. 3. INSPECTOR GENERAL.**

18 (a) IN GENERAL.—Title 31, United States Code, is
 19 amended by inserting after section 704 the following new
 20 section:

21 **“§ 705. Inspector General for the United States Gov-**
 22 **ernment Accountability Office**

23 “(a) ESTABLISHMENT OF OFFICE.—There is estab-
 24 lished an Office of the Inspector General in the United
 25 States Government Accountability Office, to—

1 “(1) conduct and supervise audits consistent
2 with generally accepted government auditing stand-
3 ards and investigations relating to the United States
4 Government Accountability Office;

5 “(2) provide leadership and coordination and
6 recommend policies, to promote economy, efficiency,
7 and effectiveness in the United States Government
8 Accountability Office; and

9 “(3) keep the Comptroller General and Con-
10 gress fully and currently informed concerning fraud
11 and other serious problems, abuses, and deficiencies
12 relating to the administration of programs and oper-
13 ations of the United States Government Account-
14 ability Office.

15 “(b) APPOINTMENT, SUPERVISION, AND REMOVAL.—

16 “(1) The Office of the Inspector General shall
17 be headed by an Inspector General, who shall be ap-
18 pointed by the Comptroller General without regard
19 to political affiliation and solely on the basis of in-
20 tegrity and demonstrated ability in accounting, au-
21 diting, financial analysis, law, management analysis,
22 public administration, or investigations. The Inspec-
23 tor General shall report to, and be under the general
24 supervision of, the Comptroller General.

1 “(2) The Inspector General may be removed
2 from office by the Comptroller General. The Com-
3 ptroller General shall, promptly upon such removal,
4 communicate in writing the reasons for any such re-
5 moval to each House of the Congress.

6 “(c) AUTHORITY OF INSPECTOR GENERAL.—In addi-
7 tion to the authority otherwise provided by this section,
8 the Inspector General, in carrying out the provisions of
9 this section, is authorized—

10 “(1) to have access to all records, reports, au-
11 dits, reviews, documents, papers, recommendations,
12 or other material that relate to programs and oper-
13 ations of the United States Government Account-
14 ability Office;

15 “(2) to make such investigations and reports
16 relating to the administration of the programs and
17 operations of the United States Government Ac-
18 countability Office as are, in the judgment of the In-
19 spector General, necessary or desirable;

20 “(3) to request such documents and informa-
21 tion as may be necessary for carrying out the duties
22 and responsibilities provided by this section from
23 any Federal agency;

24 “(4) in the performance of the functions as-
25 signed by this section, the Inspector General shall

1 use the authority and procedures provided in section
2 716 of this title to obtain all information, docu-
3 ments, reports, answers, records, accounts, papers,
4 and other data and documentary evidence from a
5 person not in the United States Government or from
6 a Federal agency, to the same extent and in the
7 same manner as the Comptroller General;

8 “(5) to administer to or take from any person
9 an oath, affirmation, or affidavit, whenever nec-
10 essary in the performance of the functions assigned
11 by this section, which oath, affirmation, or affidavit
12 when administered or taken by or before an em-
13 ployee of an Office of Inspector General designated
14 by the Inspector General shall have the same force
15 and effect as if administered or taken by or before
16 an officer having a seal;

17 “(6) to have direct and prompt access to the
18 Comptroller General when necessary for any purpose
19 pertaining to the performance of functions and re-
20 sponsibilities under this section;

21 “(7) to report expeditiously to the Attorney
22 General whenever the Inspector General has reason-
23 able grounds to believe there has been a violation of
24 Federal criminal law; and

1 “(8) to provide copies of all reports to the
2 United States Government Accountability Office’s
3 Audit Advisory Committee and to provide such addi-
4 tional information in connection with such reports as
5 is requested by the Committee.

6 “(d) COMPLAINTS BY EMPLOYEES.—

7 “(1) The Inspector General may receive, review,
8 and investigate, as the Inspector General deems ap-
9 propriate, complaints or information from an em-
10 ployee of the United States Government Account-
11 ability Office concerning the possible existence of an
12 activity constituting a violation of law, rules, or reg-
13 ulations, mismanagement, or gross waste of funds,
14 provided that the IG shall refer complaints or infor-
15 mation concerning violations of personnel law, rules,
16 or regulations to established investigative and adju-
17 dicative entities of the United States Government
18 Accountability Office.

19 “(2) The Inspector General shall not, after re-
20 ceipt of a complaint or information from an em-
21 ployee, disclose the identity of the employee without
22 the consent of the employee, unless the Inspector
23 General determines such disclosure is unavoidable
24 during the course of the investigation.

1 “(3) Any employee who has authority to take,
2 direct others to take, recommend, or approve any
3 personnel action, shall not, with respect to such au-
4 thority, take or threaten to take any action against
5 any employee as a reprisal for making a complaint
6 or disclosing information to the Inspector General,
7 unless the complaint was made or the information
8 disclosed with the knowledge that it was false or
9 with willful disregard for its truth or falsity.

10 “(e) SEMIANNUAL REPORTS.—(1) The Inspector
11 General shall submit semiannual reports summarizing the
12 activities of the Office of the Inspector General to the
13 Comptroller General. Such reports shall include, but need
14 not be limited to—

15 “(A) a summary of each significant report, in-
16 cluding a description of significant problems, abuses,
17 and deficiencies disclosed by such report during the
18 reporting period;

19 “(B) a description of the recommendations for
20 corrective action made with respect to significant
21 problems, abuses, or deficiencies identified in sub-
22 paragraph (A);

23 “(C) a summary of the progress made in imple-
24 menting such corrective action identified in subpara-
25 graph (B); and

1 “(D) information concerning any disagreement
2 the Comptroller General has with a recommendation
3 of the Inspector General.

4 “(2) The Comptroller General shall transmit the
5 semiannual reports of the Inspector General, together with
6 any comments the Comptroller General considers appro-
7 priate, to the Congress within 60 days of receipt of such
8 reports.

9 “(f) INDEPENDENCE IN CARRYING OUT DUTIES AND
10 RESPONSIBILITIES.—The Comptroller General is not au-
11 thorized to prevent or prohibit the Inspector General from
12 carrying out any of the duties or responsibilities assigned
13 to the Inspector General under this section.

14 “(g) AUTHORITY FOR STAFF.—

15 “(1) IN GENERAL.—The Inspector General
16 shall select, appoint, and employ such personnel as
17 may be necessary to carry out the provisions of this
18 section consistent with the provisions of this title
19 governing selections, appointments, and employment
20 in the United States Government Accountability Of-
21 fice. Such personnel shall be appointed, promoted,
22 and assigned only on the basis of merit and fitness,
23 but without regard to those provisions of title 5 gov-
24 erning appointments and other personnel actions in
25 the competitive service, except that no personnel of

1 the Office may be paid at an annual rate greater
2 than \$1,000 less than the annual rate of pay of the
3 Inspector General.

4 “(2) EXPERTS AND CONSULTANTS.—The In-
5 spector General may procure temporary and inter-
6 mittent services under section 3109 of title 5,
7 United States Code at rates not to exceed the daily
8 equivalent of the annual rate of basic pay for level
9 V of the Executive Schedule under section 5315 of
10 such title.

11 “(3) INDEPENDENCE IN APPOINTING STAFF.—
12 No individual may carry out any of the duties or re-
13 sponsibilities of the Office of the Inspector General
14 unless the individual is appointed by the Inspector
15 General, or provides services procured by the Inspec-
16 tor General, pursuant to this paragraph.

17 “(4) The Inspector General and any individual
18 carrying out any of the duties or responsibilities of
19 the Office of the Inspector General are prohibited
20 from performing any program responsibilities.

21 “(h) OFFICE SPACE.—The Comptroller General shall
22 provide the Office of the Inspector General with appro-
23 priate and adequate office space, together with such equip-
24 ment, office supplies, and communications facilities and
25 services as may be necessary for the operation of the Of-

1 fice of the Inspector General, and shall provide necessary
 2 maintenance services and the equipment and facilities lo-
 3 cated therein.

4 “(i) DEFINITION.—As used in this section, the term
 5 ‘Federal agency’ means a department, agency, instrumen-
 6 tality or unit thereof of the Federal Government.”.

7 (b) INCUMBENT.—The individual who serves in the
 8 position of Inspector General of the United States Govern-
 9 ment Accountability Office on _____, 2008, shall con-
 10 tinue to serve in such position subject to the removal in
 11 accordance with this section.

12 (c) EFFECTIVE DATE.—This section shall be effective
 13 upon enactment of this Act.

14 (d) CLERICAL AMENDMENT.—The table of contents
 15 of chapter 7, of title 31, United States Code, is amended
 16 by adding at the end of subchapter I the following:

“705. Inspector General for the United States Government Accountability Of-
 fice.”.

17 **SEC. 4. ADMINISTERING OATHS.**

18 Section 711 is amended—

19 (1) by striking “when auditing and settling ac-
 20 counts” in paragraph 4, and

21 (2) by adding to the end of paragraph 4, as
 22 amended, “upon the specific approval only of the
 23 Comptroller General or the Deputy Comptroller
 24 General.”

1 **SEC. 5. COMPTROLLER GENERAL REPORTS.**

2 Section 719 is amended—

3 (1) by striking “and” at the end of clause (B)

4 in subsection (b)(1),

5 (2) by striking the period at the end of clause

6 (C) in subsection (b)(1) and inserting “; and”,

7 (3) by adding a new clause at the end of sub-

8 section (b)(1) as follows:

9 “(D) for Federal agencies subject to sec-
10 tions 901–903 of title 31 and other agencies
11 designated by the Comptroller General an as-
12 sessment of their overall degree of cooperation
13 in making personnel available for interview,
14 providing written answers to questions, submit-
15 ting to an oath authorized by the Comptroller
16 General under section 711, granting access to
17 records, providing timely comments to draft re-
18 ports, adopting recommendations in reports and
19 responded to such other matters as the Comp-
20 troller General deems appropriate.”,

21 (4) by striking “and” at the end of clause (B)

22 in subsection (c)(2),

23 (5) by striking the period at the end of sub-

24 section (c)(3) and inserting “; and”, and

25 (6) by adding a new subsection at the end of

26 section (c) as follows:

1 “(4) as soon as practicable when an agency or
2 other entity does not, within a reasonable time of a
3 request by the Comptroller General, make personnel
4 available for interview, provide written answers to
5 questions, or submit to an oath authorized by the
6 Comptroller General under section 711.”.

7 **SEC. 6. REIMBURSEMENT OF AUDIT COSTS.**

8 Section 3521 is amended by inserting after sub-
9 section (h) the following new subsection:

10 “(i)(1) Any executive agency or component thereof
11 that prepares an audited financial statement or any re-
12 lated schedules under section 3515 shall reimburse the
13 Government Accountability Office the cost of any audit of
14 the financial statements or related schedules of such agen-
15 cy or component performed by the Comptroller General
16 of the United States.

17 “(2) Reimbursements required by paragraph (1) shall
18 be credited to the appropriation account ‘Salaries and Ex-
19 penses, Government Accountability Office’ current when
20 the reimbursement is received and shall remain available
21 until expended.”.

22 **SEC. 7. CONFORMING AMENDMENT.**

23 Section 1401 of title I of Public Law No. 108–83
24 is repealed.

1 **SEC. 8. FINANCIAL DISCLOSURE REQUIREMENTS.**

2 Section 109 of title 5, United States Code, Appendix
3 4, is amended—

4 (1) by inserting “except officers or employees of
5 the Government Accountability Office,” at the begin-
6 ning of subparagraph (13)(B)(i),

7 (2) by redesignating subparagraph (13)(B)(ii)
8 as (13)(B)(iii),

9 (3) by striking “and” at the end of subpara-
10 graph (13)(B)(i), and

11 (4) by adding a new subparagraph after sub-
12 paragraph (13)(B)(i) as follows:

13 “(ii) each officer or employee of the
14 Government Accountability Office who, for
15 at least 60 consecutive days, occupies a po-
16 sition for which the rate of basic pay,
17 minus the amount of locality pay author-
18 ized for General Schedule employees under
19 section 5304 of this title for the area
20 where the employee is located, is equal to
21 or greater than 120 percent of the min-
22 imum rate of basic pay payable for GS–15
23 of the General Schedule; and”.

24 **SEC. 9. ADDITIONAL AUTHORITIES.**

25 Section 731 is amended—

26 (1) by deleting section (d),

1 (2) by renumbering sections (e), (f), (g), (h),
2 and (i), as sections (d), (e), (f), (g), and (h),

3 (3) by amending the new section (d) as follows:

4 (A) by deleting subparagraph (2) in its en-
5 tirety,

6 (B) by deleting the dash at the end of the
7 first clause and the “(1)” that follows,

8 (C) by striking “GS–18 under section
9 5332 of such title” and inserting “level IV of
10 the Executive Schedule”,

11 (D) by striking “15” and inserting “20”,
12 and

13 (E) by striking “; and” and inserting a
14 “period”, and

15 (4) by adding new subsections (i) and (j) as fol-
16 lows:

17 “(i) Funds appropriated to the Government Account-
18 ability Office for salaries and expenses are available for
19 meals, entertainment, and other related expenses incurred
20 in connection with recruitment.

21 “(j) Consistent with regulations promulgated by the
22 Comptroller General, the Government Accountability Of-
23 fice may accept, hold, administer, use, and dispose of any
24 money or property, real, personal or mixed, tangible or
25 intangible, received by the Office as a gift, devise, bequest,

1 grant, or otherwise for the purpose of aiding or facilitating
2 the work of the Office.”.

3 **SEC. 10. HIGHEST BASIC PAY RATE.**

4 Section 732(c)(2) is amended by striking “highest
5 basic rate for GS–15” and inserting “rate for Executive
6 Level III, provided that the total amount of cash com-
7 pensation in any year shall be subject to the limitations
8 provided under section 5307(a)(1) of title 5, United States
9 Code;”.

10 **SEC. 11. PAY ADJUSTMENTS.**

11 Section 732(c) is amended—

12 (1) in clause (2) by striking “(4)” and inserting
13 “(5)”;

14 (2) by redesignating clause (4) as clause (5);
15 and

16 (3) by inserting after subparagraph (3) the fol-
17 lowing:

18 “(4) whenever the rates of basic pay for the Ex-
19 ecutive Schedule are increased, the Comptroller Gen-
20 eral may increase the rate of basic pay for the posi-
21 tions in sections 703(g), 731(c), and 731(d) that are
22 paid by reference to the Executive Schedule. In de-
23 termining whether to grant all or part of such in-
24 crease, the Comptroller General shall consider the
25 funding level for the Office and any other appro-

1 piate criteria. If the Comptroller General increases
 2 the rate of basic pay for such positions, the Comp-
 3 troller General may delay the implementation of
 4 such increases to become effective no later than the
 5 effective date of increases under paragraph 3 of this
 6 subsection;”.

7 **SEC. 12. COMPTROLLER GENERAL’S ANNUITY.**

8 Section 777(b) is amended in the first sentence by
 9 striking “of the Comptroller General” and inserting “for
 10 level II of the Executive Schedule”.

11 **SEC. 13. PLACEMENT IN SENIOR EXECUTIVE SERVICE.**

12 (a) Section 732a(b) is amended by striking “section
 13 731(d), (e)(1), or (e)(2)” and inserting “section 731(d)”.

14 (b) Section 733(c) is amended by striking “731(c),
 15 (d), (e)(1), or (e)(2)” and inserting “703(g)(2), 731(c) or
 16 (d)”.

17 **SEC. 14. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

18 Section 2 of Public Law 106–303, as amended by sec-
 19 tion 2 of Public Law 108–271 (5 U.S.C. 5597 note) is
 20 amended—

21 (1) by striking “subsection (a)(2)(d)” at the be-
 22 ginning of (b)(1) and inserting “subsections
 23 (a)(2)(D) and (c)(2)(d)”,

- 1 (2) by inserting “and” following the colon in
- 2 subsection (b)(4) and striking the colon at the end
- 3 of subsection (b)(5) and inserting a period,
- 4 (3) by striking subsections (b)(6) and (b)(7),
- 5 (4) by striking subsection (c),
- 6 (5) by striking in subsection (d) the “s” in
- 7 “Definitions”, all of subsection (1), and “(2) EM-
- 8 PLOYEE.—” in subsection (2) and by adding as part
- 9 of subsection (d) the remaining text of the section,
- 10 (6) by striking the phrase “, excluding sub-
- 11 section (c)” in subsection (f), and
- 12 (7) by respectively redesignating subsections
- 13 (d), (e), (f), and (g) as subsections (c), (d), (e), and
- 14 (f).

15 **SEC. 15. BASIC PAY FOR RETIREMENT.**

16 Section 8331(3) of title 5, United States Code, is

17 amended—

- 18 (1) by striking “and” at the end of subpara-
- 19 graph (G),
- 20 (2) by inserting “and” at the end of subpara-
- 21 graph (H),
- 22 (3) by adding a new subparagraph as follows:
- 23 “(I) the nonpermanent amount of a per-
- 24 formance-based pay increase received by an of-
- 25 ficer or employee of the Government Account-

1 ability Office provided that such increase does
2 not cause the officer's or employee's salary to
3 exceed the maximum salary in section
4 732(c)(2);", and
5 (4) by striking "(B) through (H)" in the lan-
6 guage following new subparagraph (I), and inserting
7 "(B) through (I)".

8 **SEC. 16. EFFECTIVE DATES.**

9 This Act and the amendments made by this Act shall
10 take effect on the date of enactment of this Act, except
11 that sections 6 and 7 and the amendments made by those
12 sections shall take effect on October 1, 2009.

○